



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,978	10/09/2003	Dan W. Dansie	3351.2.1	7796
28049	7590	07/18/2005		
PATE PIERCE & BAIRD 215 SOUTH STATE STREET, SUITE 550 PARKSIDE TOWER SALT LAKE CITY, UT 84111				
			EXAMINER RAMIREZ, RAMON O	
			ART UNIT 3632	PAPER NUMBER

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,978

Applicant(s)

DANSIE, DAN W.

Examiner

RAMON O. RAMIREZ

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-22 and 24-28 is/are rejected.
- 7) ☒ Claim(s) 7, 8 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

This is the third Office Action corresponding to amendment filed Jun 20, 2005. The application is considered to contain 30 claims. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Amendment

The amendment does not comply with the new practice for amendments. All the claims must be listed with proper status identifier, including cancelled claims, and claims as original filed. The instant status identifiers are wrong. The examiner is going to consider that all 30 claims are still presented for examination, and he is doing this in order to expedite prosecution. In the future, amendments not complying with the new practice would not be entered.

Claim Rejections - 35 USC § 103

Claims 1-6, 9-22, and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahan (Pat No 2,500,257) in view of Birdwell (6,158,876). The patent to Mahan shows a flashlight holder comprising an attachment member and a grip member (22) extending from the attachment member, both elements sharing an outer surface.

The patent to Birdwell was explained in the former Office Action.

It would have been obvious to one skilled in the art at the time the invention was made to have made the attachment member of Mahan flexible as shown by Birdwell to facilitate the use of the device, since it would not required to tie the attachment member. The specific material from which the device is made is considered to be an obvious matter of engineering choice having no patentable significance in the absent of unexpected results. As to claims 9, 10 and 28, the shape of this combination can be considered to be cylindrical.

Claims 9, 10 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahan (Pat No 2,500,257) in view of Birdwell (6,158,876) and Praticca et al. (Pat No 5,580,157).

The patent to Praticca et al. shows another flashlight holder comprising a cylinder portion for receiving a flashlight. It would have been obvious to one skilled in the art at the time the invention was made to have provided the device shown by Birdwell with a cylinder portion to increase the gripping force around the flashlight and better securing it.

Allowable Subject Matter

Claims 7, 8 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 29 and 30 are allowed.

Response to Arguments

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant argues alleged differences between the art and the instant invention but not between the prior art and the instant claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (571)

272-6821. The examiner can normally be reached on MONDAY-FRIDAY, IST
FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT OLSZEWSKI can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RAMON O. RAMIREZ
Primary Examiner
Art Unit 3632

ROR
July 13, 2005